

MICHIGAN ELECTION LAW (EXCERPT)

Act 116 of 1954

VOTING MACHINES

168.770 Voting machines authorized; contracts between governing bodies as to use.

Sec. 770. (1) Unless the secretary of state implements the uniform voting system in a precinct, at all elections held in this state, ballots or votes may be cast, registered, recorded, and counted by means of voting machines, as provided in this chapter.

(2) The governing body of a governmental unit in this state may contract with the governing body of another governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 386, Eff. Mar. 31, 1966;—Am. 1972, Act 214, Imd. Eff. July 7, 1972;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.770a Voting device; authorization of use by secretary of state; petition; rules as to election procedures.

Sec. 770a. Until the secretary of state implements the uniform voting system, the secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules promulgated shall be consistent with the election law.

History: Add. 1965, Act 91, Imd. Eff. June 28, 1965;—Am. 1966, Act 86, Imd. Eff. June 14, 1966;—Am. 1967, Act 50, Eff. Nov. 2, 1967;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.771 Voting machines; purchase.

Sec. 771. Until notified by the secretary of state under section 37, a county board of commissioners, the legislative body of an incorporated city or village, or the township board of a township in the state of Michigan may, by a majority vote, authorize, purchase, and order the use of a thoroughly tested or reliable voting machine in 1 or more voting precincts within the county, city, village, or township until otherwise ordered by the officers adopting the same.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.771a Selection of electronic voting system; criteria.

Sec. 771a. Beginning on the effective date of the amendatory act that added this section, the secretary of state shall allow a county clerk, in consultation with the clerk of each city, township, and village located in that county, to determine which electronic voting system will be used in the county as long as the electronic voting system selected meets both of the following criteria:

- (a) The electronic voting system is the same type of electronic voting system as the uniform voting system.
- (b) The electronic voting system is approved and certified as provided in section 795a.

History: Add. 2014, Act 464, Imd. Eff. Jan. 12, 2015.

Popular name: Election Code

168.772 Voting machines; construction and operation.

Sec. 772. A voting machine to be purchased as provided in section 771 of this act must be so constructed as to provide facilities for voting for the candidates of at least 7 different parties or organizations, and must permit all voters to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in secrecy. It shall also be so constructed that votes may be cast thereon for constitutional amendments or any other public measure; it must also be so constructed as to provide for at least 30 candidates for each party organization at any and all elections, and said machine must be constructed of good and durable material in a workmanlike manner, and also so constructed that it can be

easily and conveniently operated by inspectors of election and the voters; it must also be so constructed as to prevent voting for more than 1 person for the same office, except where the voter is entitled to vote for more than 1 person for that office, and it must afford him an opportunity to vote for any and all persons for that office as he is by law entitled to vote for and no more, at the same time preventing his voting for the same person twice: Provided, That at any time when the polls are open, any voter finding in his use of the machine that same does not operate in exact accordance with the provisions of this section shall be entitled to notify the chairman or any member of the board thereof, whereupon the member so notified and the other members of the board present shall inspect said machine and determine whether or not the alleged irregularity of operation is a fact. If it is determined that the machine is not operating in accordance with this section, no further voting thereon shall be permitted until the machine is adjusted and the number of votes recorded thereon shall not be changed during the process of adjustment. If the machine cannot be properly adjusted, it shall be locked and no further voting permitted thereon. Any person charged with the duty of setting, adjusting or operating voting machines shall perform that duty in such a manner that the machines will enable voters to use same in accordance with the provisions of this section. Any person wilfully failing to carry out the provisions of this section shall, upon conviction thereof, be fined not more than \$500.00, or imprisoned for not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

Popular name: Election Code

168.773 Voting machines or uniform voting system; maintenance; custody.

Sec. 773. (1) A county board of commissioners, the legislative body of a city or village, or the township board of a township adopting a voting machine or implementing the uniform voting system shall, as soon as practicable, provide for each election district a voting machine or uniform voting system in complete working order. The county, city, township, or village clerk shall keep the voting machine or voting system in repair and shall have the custody of the machine or system. The clerk has custody of the furniture and equipment of the polling place when not in use at an election.

(2) If it is impracticable to supply each and every election district with a voting machine at any election following the adoption, as many may be supplied as it is practicable to procure, and the voting machines may be used in the election district or districts within the county, city, village, or township as the officers adopting them may determine. More than 1 voting machine may be provided and used in an election precinct.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.774 Voting machines; contracts for purchase, terms.

Sec. 774. The board of supervisors of any county, the legislative body of any city or village, or the township board of any township, on the adoption and purchase of voting machines, may provide for the payment thereof in such manner as they deem for the best interest of the county, city, village or township, and may enter into a contract for the purchase of said machines with provision for payment thereof in annual installments not exceeding in all 10 years, and of such amounts and payable at such times as said local authorities shall determine, and said officials shall further have the right to acquire title to said machines at the time of installation or at any time thereafter by payment of the full amount of the purchase price or the balance thereof either in cash or by the issuance and delivery in payment therefor of certificates of indebtedness drawn for the amounts of said annual installments; said certificates shall be valid negotiable obligations of said county, city, village or township and may be issued with or without interest, but in no case shall the interest exceed 6%. It is further provided that in case any city, village or township of a county in which the use of voting machines shall have been determined upon by the board of supervisors shall have previously purchased voting machines, such city, township or village shall have returned to it from the general fund of said county such pro rata amount of the whole cost for the county as the number of voting precincts so previously provided by any such city, township or village bears to the whole number in the county, but not exceeding the amount previously paid by any such city, township or village.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.775 Voting machines; ballot labels, printing, order of names; amendments or questions; vignettes; printed ballots.

Sec. 775. All ballot labels shall be printed in black ink on clear white material or amendments, propositions and questions may be printed on red tinted material and the names of candidates for nonpartisan offices on blue tinted material of such size as will fit the ballot frame and in plain type as the space will reasonably

permit. (The name of each candidate for nomination to any office by a political party shall be placed upon the party row of such party to which shall be prefixed the name and vignette of such party.) The names of candidates for office to be voted for at such election shall be placed upon such machines in the same order that the names of candidates for office are now required to be placed upon printed ballots by the general election law. Where candidates for local offices in any city, village or township are to be voted for at the same election with state or county candidates, the names of the candidates for such offices shall be placed last upon such voting machines, following the names of candidates for state, county and other offices to be voted for at such election, and the name of the local unit shall be prominently printed on the ballot to indicate the portion of the ballot on which the names of the local candidates appear. The order in which The names of such candidates for local offices shall be placed upon such machines shall be prescribed by the board of election commissioners of the city, village or township, as the case may be. Where amendments to the constitution or other questions are to be voted on, such amendments or questions shall be placed on the voting machine upon the portion of the keyboard provided therefor or upon any other available space when deemed advisable by the board of election commissioners of the county, city, village or township. In city and village elections where any special question is to be voted on, a condensed statement of such question not to exceed 100 words may be placed upon the voting machine in lieu of a verbatim statement of such question. Such condensed statement shall be in such form as to apprise the voter of the exact question to be voted on. Said provision may also apply to amendments, provided that verbatim statements thereof shall in such cases be placed conspicuously within the machine booth so that each voter may, if he desires, read the entire context of such amendments; such condensed statements shall be written under the direction of the proper legal authority in the state, county, city, village or township, as the case may be. Two or more independent nominations may be placed on the same party row and such candidates shall be voted for individually. The party lever or device, if any, in connection with such party row, shall be locked whenever such party row does not contain the names of candidates of a party organization or the names of an independent body which may have nominated candidates for more than 1 office. The vignettes adopted for such independent candidates, if any, shall be printed upon the ballot labels in connection with the names of such candidates. Where voting machines are purchased or are used, the election commissioners of the county, city, village or township shall not be required to print and furnish paper ballots for election districts using voting machines, except for any question or matter that cannot be provided for by the voting machines. The board of election commissioners of the county shall cause to be printed ballot labels or slips containing the names of candidates for all offices to be voted for or questions to be voted upon, except when the city, village or township officials only are to be elected, at which time the city, village or township clerk shall provide such ballot labels for use upon such voting machines, and shall forward the same to the board of election commissioners of each city, village or township within the county where such voting machines are used at least 5 secular days before the day of election. Whenever local officers are to be elected at any such general election, it shall be the duty of the city, township or village clerk, respectively, to file with the board of election commissioners of the county, the titles of offices, the names of all candidates to be voted for, and all questions or propositions to be voted upon within such city, township or village, at that election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 293, Eff. Sept. 27, 1957;—Am. 1959, Act 173, Eff. Mar. 19, 1960;—Am. 1961, Act 178, Eff. Sept. 8, 1961.

Compiler's note: This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Popular name: Election Code

168.776 Voting machines; supplies and equipment; keys, delivery and return.

Sec. 776. Not to exceed 3 additional sets of ballot labels shall be provided for each polling place for each election for use on the voting machine, and the same shall be delivered by the board of election commissioners to the election board of each voting precinct. Envelopes for the delivery and return of the keys of the voting machine shall be furnished by the county or city clerk, upon which shall be printed or written the number of the machine, the ward or precinct and the record of the protective counter, if any, and the numbers of the seals before and after the election, each of which shall be correctly filled out and be delivered to the proper board or official: Provided, however, That in communities where the registration books and supplies are delivered to their respective boards by the local law enforcement agency, a key ring to which is attached the keys to the voting machine and tags bearing the number of the machine and the ward and/or precinct, may be delivered by said agency to the proper board or official. The number registered on the protective counter, if any, and the numbers of the seals before the election, and after, if used, shall be recorded in the "statement of returns". At the close of the polls, the key ring containing the keys to the voting machine and the tags bearing the number of the machine and of the ward and/or precinct shall be returned to the city, village or township

clerk. In all general or city elections where voting machines are used, there shall be furnished by the board of election commissioners, to the election board in each such precinct, a sufficient number of instruction ballots or wall diagrams showing the keyboard of the voting machine with the titles of offices, names of candidates, with designating numbers and letters, if any, and questions, and with illustrations and brief instructions on how to vote.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.777 Voting machines; model, instructions.

Sec. 777. A model representing a portion of the face of the machine and containing fictitious names must be delivered to each board of election inspectors for use on election day, and one of said board, or some one appointed by said board, shall offer to exhibit and explain the operation of the voting machine, by use of the model, to each voter before such voter shall be allowed to vote. Printed instructions on how to vote, circulated to voters, must conform to the instructions approved by the official providing ballots, and adapted to the machine used.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.778 Voting machines; control; clerk and assistants as officers of election; compensation; exception; number of assistants; preparation of machines; inspection; certification; lighting; delivery of machines; police protection; supervision of machines.

Sec. 778. The clerk of a city, village, or township in which voting machines are used shall have complete control of the machines. However, if the machines are owned by the county, this control is vested in the county clerk. The clerk and his or her authorized assistants are, for the purpose of this chapter, officers of election and may be paid for the time spent in the discharge of their duties, in the same manner as other election officers are paid. However, this section does not apply to a city where the clerk or his or her authorized assistants receive compensation that is fixed by the legislative body. In cities where there are more than 20 voting machines, more than 1 authorized assistant may be appointed. The clerk or his or her authorized assistants shall cause the machines to be properly labeled, put in order, set, and arranged. In preparing a voting machine for an election, the clerk or his or her authorized assistants shall arrange the machine and the ballots so that it will meet the requirements for voting and counting at the election, and thoroughly test and seal or lock the machine. When a machine has been prepared for the election, the election commissioners, or their authorized assistants, shall inspect the machine to determine whether it is properly prepared. An authorized assistant shall not be the same person who prepared and set the voting machine. The election commissioners or their authorized assistant shall prepare and file with the commissioners a written certificate certifying to the correct adjustment of the machine, the number of the machine, whether or not all the candidates and question counters and the public counter are set at zero, the number registered on the protective counter, if one is provided, and the number of the metal seal with which the machine is sealed. In elections in which state and county officers are to be voted for, an additional certificate shall be filed with the county clerk. Each voting machine shall be furnished with a light sufficient to enable voters while in the booth or other enclosure to read the ballot labels, and suitable for use by the election officers in examining the counters of the machine. The clerk or his or her authorized assistants shall cause the voting machines to be delivered at the polling places in which they are to be used at least 1 hour before the time set for opening the polls. Police protection shall be furnished by the local authorities whenever the officers charged with the duty of preparing the machines consider protection necessary to prevent possible injury to a machine, but the machines shall at all times be under the supervision of an officer, except during the hours prescribed by law for voting on election day.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.779 Election inspectors; qualifications as to voting machines.

Sec. 779. No inspector of election shall serve in any election at which a voting machine is used unless he shall have received instruction as provided in section 683 of this act and is fully qualified to perform his duties in connection with the machine. This shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 67, Eff. Mar. 28, 1963.

Popular name: Election Code

168.780 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

Compiler's note: The repealed section dispensed with all clerks and gatekeepers in any city, village or township where voting machines were used.

Popular name: Election Code

168.781 Election inspectors and poll clerks; opening of polls, examination of machine seals and counter, delivery of keys, other duties.

Sec. 781. The inspectors of election and poll clerks, if any, of each district shall meet at the polling place therein, at least 1/2 hour before the time set for the opening of the polls at such election, and shall proceed to arrange within the guard rail the furniture and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election, and the registry of the electors required to be made and kept therefor. The inspectors shall thereupon cause at least 2 instruction cards to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine the ballot labels containing the names of the offices to be filled at such election, the names of the candidates nominated therefor and the question, if any, to be voted upon. The keys of the voting machines shall be delivered to the election officers or chairman of the election board not more than 24 hours nor less than 1/2 hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number on the seal and, if provided with a protective counter, the number registered on such counter as reported by the clerk or his authorized assistants: Provided, That where key rings to which are attached the keys to the voting machines, with tags bearing the numbers of the machines and of the wards and/or precincts, are delivered by the local law enforcement agency, the number on the seal and of the protective counter, if any, shall be recorded in the statement of returns. Before opening the machine, at least 2 of the officers present shall examine the number of the seal on the machine, also the number registered on the protective counter, if one is provided, and shall see if they are the same as recorded on the envelope containing the keys or on the statement of returns. If found not to agree, the machine must not be opened until the clerk, or the assistant duly appointed and authorized to act for such clerk, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and the protective counter, if one is provided, are found to agree with the numbers on the envelope or statement of returns, the inspectors shall proceed to open the doors concealing the counters. Before the polls are opened for the election, each inspector shall carefully examine every candidate and question counter and see that it registers zero, and the same shall be subject to the inspection of the official challengers who may be present. If any counter for a candidate or question is found not to register zero, the inspectors of election shall immediately notify the county, city or township clerk, under whose direction such machine has been prepared for election, and said clerk or the assistant appointed by him shall adjust the counter at zero, re-examine the machine and certify to its proper adjustment for use in the election. During the examination of the voting machine by the inspectors of election, the machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by the electors in voting, or by the inspectors in recording absent voters' ballots.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.782 Repealed. 1966, Act 62, Imd. Eff. June 9, 1966.

Compiler's note: The repealed section pertained to irregular and emergency ballots.

Popular name: Election Code

168.782a Voting machines; voting for more write-in candidates than space on machine, procedure.

Sec. 782a. If any voter wishes to vote for more write-in candidates than there are spaces upon the voting machine or for any person whose name is not on the machine or for any combination of names that cannot be voted with the machine, the following procedure shall be followed:

- (a) The voter shall notify an election inspector of the situation.
- (b) The election inspector shall tell the voter to clear the voting machine, in secret, of all votes including write-ins that the voter has attempted to cast.
- (c) The voter shall advise the election inspector when he has cleared the machine.
- (d) Not less than 2 election inspectors who shall not be of the same political party shall then inspect the

machine to determine whether it is cleared, and if not, shall proceed to clear the machine, including the write-in slots.

(e) The election inspectors shall then operate the appropriate voting machine mechanism to prepare the machine for the next voter.

(f) The election inspectors shall make a notation of the facts in the poll book and shall initial the notation.

(g) The election inspectors shall provide the voter with a complete set of paper ballots identical to the paper ballots used by absentee voters in that precinct, and shall also provide the voter with an unsealed envelope in which to deposit the ballots.

(h) The voter shall mark his ballots, in secrecy, and deposit them in the envelope provided, seal the envelope and hand the sealed envelope to an election inspector.

(i) The election inspector shall commingle the envelope with absentee ballot return envelopes of the precinct, if any.

(j) The envelopes and ballots shall be called, tallied and processed in the same manner as absentee ballots.

(k) If any paper ballots are cast under the provisions of this section in any municipality using absent voter counting precincts, the chairman of the election board in the precinct where the ballots were cast shall immediately upon the close of the polls notify the clerk of the governmental unit of such fact and the clerk shall cause the ballots to be transmitted to the absent voter counting precinct.

History: Add. 1966, Act 62, Imd. Eff. June 9, 1966.

Popular name: Election Code

168.782b Emergency ballots.

Sec. 782b. If there is no reserve machine available, emergency ballots may also be provided by the county board of election commissioners. Emergency ballots shall have suitable blank spaces to permit the voter to vote for the candidates for whom the elector desires to vote. The ballots shall be used only in emergency and upon special permission of the board or official whose duty it is to provide ballots for the election. The board or official shall prepare the emergency ballots that shall be held by the city, township, or village clerk, subject to the order of the county clerk or other authorized person. It is not necessary to provide emergency ballots for each election unless previously provided ballots have been used, destroyed, or lost, in which case similar ballots shall again be provided. If at any time during the election, the voting machine is disabled and cannot be repaired and no other voting machine is available, an emergency shall be declared to exist and the voting after an emergency is declared at that election in that voting precinct shall be by emergency ballot, in the manner provided in this section. The board or official that has custody of the emergency ballots, when so directed, shall supply a sufficient number of emergency ballots to the election board for use by the voters. One of the ballots shall be delivered by the election board to each voter who appears to vote after an emergency is declared. Emergency ballots shall be voted and counted subject to the provisions relative to voting by ballot at general elections, except as otherwise provided in this section. The ballots shall be numbered consecutively from 1 up, and the number and identification shall be printed on a perforated stub as in the case where only regular ballots are used at elections.

History: Add. 1966, Act 62, Imd. Eff. June 9, 1966;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

—Eliminate “straight party” vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.783 Voting machines; challenged voter, procedure.

Sec. 783. When the right of any person offering to vote is challenged and his answers under oath shall show him to possess the qualifications to vote at that precinct, he must be allowed to cast his vote either upon the regular keyboard of the machine, or upon the machine in the space provided for voting an “irregular ballot”, or upon a ballot such as provided for absent voters, in the discretion of the precinct inspectors. The poll list shall be marked and the paper ballot, if used, shall be identified in the manner provided where voting machines are not used and such ballots shall be counted, recorded and preserved in the same manner as prescribed elsewhere in this chapter for the handling of absent voters' ballots. If the vote be cast upon the machine in the space provided for voting an “irregular ballot”, the poll list number shall be written in the space on the machine next preceding the ballot cast and the number concealed and the ballot preserved as near as possible in the manner as prescribed in case the voter is permitted to use the paper ballot.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.784 Voting machines; irregular ballots, unlawful use.

Sec. 784. With the exception of persons not nominated or for a combination of names that cannot be voted with the machine and except for voting for president and vice-president and except for challenged votes, no irregular ballot shall be voted for any person for any office, whose name appears on the machine as a nominated candidate for that office. An irregular ballot must be cast in its appropriate place on the machine or it shall be void and not counted.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.785 Voting machines; location.

Sec. 785. The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and the public. The voting machine shall be placed at least 3 feet from every wall and partition of the polling place.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.786 Voting machines; voting; secrecy; time limit.

Sec. 786. Only 1 voter at a time shall be permitted to pass within the guard rail to vote. The operating of the voting machine by the elector while voting shall be secret and obscure, from all other persons, except as provided by this act in cases of assisted electors or a minor child accompanying an elector in the booth or voting compartment under section 736a. A voter shall not have the right to remain within the voting machine booth longer than 2 minutes and if he or she refuses to leave it after the lapse of 2 minutes, the voter shall be removed by the inspectors. However, the inspectors may grant the voter further time in their discretion.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

Compiler's note: This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Popular name: Election Code

168.787 Voting machines; keyboard concealed.

Sec. 787. The front of the voting machine shall be in full view of the inspectors and bystanders at all times during the election, and the machine shall be so placed or equipped that the keyboard of the machine shall be concealed from the view of all persons, except the voter, so that the voting of each voter shall be in secrecy.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.788 Voting machines; locking.

Sec. 788. An inspector of election shall attend to the locking and unlocking of the machine and it shall be his duty to prevent said machine from being unlocked at any time during said election, except when a voter is within for the purpose of voting, and whenever a voter has voted the inspector shall lock the machine and it shall remain so until another voter enters for the purpose of voting.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.789 Voting machines; election inspectors, instructions to voter, assistance to incapacitated voter.

Sec. 789. In case any elector, after entering the voting machine booth, shall ask for further instructions concerning the manner of voting, 2 inspectors shall give such instructions to him, but no inspector or other election officer or person assisting at any election shall set such machines for any such elector, or move, turn or operate any lever or other part or mechanism of such machine for such elector, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall be left alone in the voting machine booth and shall vote as in the case of an unassisted voter, and no inspector or other election officer or person assisting at any election shall be present in such voting machine booth when any such elector sets or operates such machine. When an elector shall make oath that because of physical disability he cannot set or operate such machine, or when such disability shall be made manifest to said inspectors, such machine shall be set and operated for him and in accordance with the manner in which he wishes to vote by 2 inspectors designated by the board for that purpose.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.790 Voting machines; defacing, altering or injuring machine or labels.

Sec. 790. No voter or other person shall deface, alter or injure the voting machine or change position of the ballot labels thereon. It shall be the duty of the inspectors of election to enforce the provisions of this section. The inspectors of election shall, at such intervals as they may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced, altered or injured, to detect the wrongdoer and to repair any injury.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 159, Eff. Sept. 27, 1957.

Popular name: Election Code

168.791 Voting machines; sealing against voting; reading and announcement of vote; absent voters' ballots; legality; count and tally; completion of returns; availability; sealing and locking machine.

Sec. 791. As soon as the polls of election are officially closed and the last voter has voted, the inspectors of election shall seal the operating lever of the machine, if any, against voting, with the numbered metal seal provided for that purpose and open the counter compartment in the presence of the challengers and all other persons lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board shall then under the scrutiny of another member, in the order of the offices as their titles appear on the machine, read and announce in a distinct voice the candidate's name or the designating number and letter, if any, of each counter for each candidate's name and the number of votes shown on said counter, and shall then in like manner read and announce the vote on each constitutional amendment, proposition or other question. He shall also announce the vote as recorded for each office on the irregular ballots, if any. The candidate counters shall be read consecutively along the row or column and the votes as registered and announced shall be entered in ink by members of the board, directly into the inspectors' statement of returns, in the space which has the same candidate's name or designating number and letter, if any. After recording on the inspectors' statement of returns, the vote as shown by the counters, the figures shall be verified by being called off in the same manner from the counters of the machine by another inspector. At least 2 copies of the statement of returns shall be made simultaneously.

When absent voters' ballots have been returned to the city clerk and delivered to the precinct board of election inspectors such election inspectors shall determine the legality of such ballots as prescribed in this act, and shall count and tally the votes on such ballots on 2 separate tally sheets which shall be provided by the county clerk. The canvass will be performed in the same manner as is provided for paper ballot precincts. The totals from this canvass shall be entered separately on the statement of returns and also included in the total precinct vote as shown on the statement.

The counter compartment of the voting machine shall remain open until the statement of returns and other records, if any, have been fully completed and signed by the election board. During such time any challenger of any party, duly accredited as provided by the election law, who may desire to be present shall be admitted to the polling place. Immediately after the canvass has been completed, the results, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made

available to interested persons who may be present. Ample opportunity shall be given to any person lawfully present to compare the results with the counterdials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked.

When absent voters' ballots have been cast in the voting precinct, the machine shall not be closed and locked until such ballots, from which the perforated numbered corners have been detached, have been sealed in an envelope provided for that purpose or wrapped and tied in the manner provided at elections where voting machines are not used, and placed inside the machine, after which the doors shall be securely closed and locked. On the envelope or wrapper shall be printed a certificate which shall be signed by all members of the election board certifying that the absent voters' ballots contained therein have been properly recorded on the absent voters' tally sheet and the statement of returns.

Such machines shall remain sealed or locked and shall not be operated subsequent to any primary or election until the day following the last day for filing petitions for recount of any votes cast on such machines, after which period the seals may be broken and machines released, unless a recount petition has been filed and the recount not completed, or the release of the machine has been stayed by a court order. In any case, the seals shall be broken and machines released not less than 20 days preceding an election at which such machines are to be used. In city, village and township elections, the legislative body may, if not prohibited by the charter of such city, village or township, provide for a different period during which the machine shall remain sealed or locked.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970.

Popular name: Election Code

168.791a Printer type voting machines; definition, operation.

Sec. 791a. "Printer type voting machine" as used in this act means a voting machine which prints the reading upon each of the respective candidate and proposition counters directly upon one or more sheets of paper and shows the counter reading as appearing upon such machine both before the opening of the polls and after the last vote is recorded. If a printer type voting machine is used in a precinct at an election, the board of election inspectors of the precinct shall not have a key to the counter compartment of the machine, nor open the same at any time. All of the other provisions of this act relating to the conduct of elections through the use of voting machines shall be applicable to such machines, except that the counter readings shall be taken from the printed sheets rather than from the respective counters, and such sheets shall be subject to inspection the same as the counters would otherwise be. At the conclusion of the precinct canvass, one sheet showing the reading upon each of the respective counters after the last vote is recorded upon each of such machines used in the precinct, shall be included with the returns to the county board of canvassers, and one sheet from each of such machines shall be included with the returns to the local clerk. One of such sheets from each machine, and one sheet showing the counter reading as appearing before the opening of the polls, shall be locked in the machine from which the same was taken. Such sheets shall be initialed by each of the members of the precinct board of election inspectors before completing the returns.

History: Add. 1963, Act 171, Eff. Sept. 6, 1963.

Popular name: Election Code

168.792 Voting machines; discrepancy in return; re-canvass; examination, statement of result; petition for recount.

Sec. 792. (1) If it appears that there is a discrepancy in the returns of any election district, the board of county canvassers, or the authorized representatives of the board of county canvassers, shall make a record of the number of the seal, if any, the number on the protective counter, if one is provided, and shall open the counter compartment of the machine, and without unlocking the machine against voting, shall re-canvass the vote cast on the machine. Before making the re-canvass, the board of county canvassers shall give sufficient notice in writing to the clerk of the time and place where the re-canvass is to be made.

(2) If upon re-canvass it is found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the clerk or authorized assistant of the clerk, in the presence of the election inspectors and the board of county canvassers, shall unlock the voting and counting mechanism of the machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the return from the machine.

(3) Before testing the machine, the counters in the party row or column in which the discrepancy is alleged to have occurred shall be set at zero after which each of the counters shall be operated at least 100 times.

(4) After the completion of the examination, the clerk or authorized assistant of the clerk shall then and

there prepare a statement in writing giving the result of the test, and the statement shall be witnessed by the persons present and shall be filed with the board of county canvassers.

(5) A candidate voted for at any election who conceives himself or herself aggrieved on account of any fraud, error, or mistake in the canvass of the vote by the election inspectors or in the returns made by the election inspectors may file a written petition for a recount with the board of county canvassers.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Popular name: Election Code

168.792a Absent voter counting boards.

Sec. 792a. (1) For elections conducted before July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village may establish an absent voter counting board for each election day precinct in that city, township, or village. For elections conducted on or after July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village shall establish an absent voter counting board for each election day precinct in that city, township, or village. The ballot form of an absent voter counting board shall correspond to the ballot form of the election day precinct for which it is established. After the polls close on election day, the county, city, township, or village clerk responsible for producing the accumulation report of the election results submitted by the boards of precinct election inspectors shall format the accumulation report to clearly indicate all of the following:

- (a) The election day precinct returns.
- (b) The corresponding absent voter counting board returns.
- (c) A total of each election day precinct return and each corresponding absent voter counting board return.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed

absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by

the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, township, or village clerk.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, or village.

History: Add. 1961, Act 230, Eff. Sept. 8, 1961;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970;—Am. 1971, Act 15, Eff. Mar. 30, 1972;—Am. 1973, Act 15, Imd. Eff. Apr. 30, 1973;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1990, Act 95, Imd. Eff. June 6, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 272, Imd. Eff. July 3, 2012.

Compiler's note: Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Popular name: Election Code

168.792b Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

Compiler's note: The repealed section pertained to inapplicability of MCL 168.792a in presidential primary elections.

Popular name: Election Code

168.793 Voting machines; inspectors' statement forms.

Sec. 793. The proper board of election commissioners shall furnish the necessary inspectors' statement of returns sheets and the certificates and envelopes suitable to the machine used, together with ballot labels and other election supplies for each election, to be delivered to the respective boards of election inspectors to make returns where voting machines are to be used. The form of the inspectors' statement of returns sheets shall be suitable to the type of machine used and the inspectors' certificate contained therein shall in addition certify to the machine number, the number on the protective counter, if any, the number on the seal, and that all candidate counters, question counters and the public counter registered zero before the polls opened; also the record on the protective counter and on the seal, if any, with which the machine is sealed by the inspectors, the number on the public counter and the number of names on the poll list after the polls close; also a record of the disposition of the absent voters' ballots as provided in section 791 of this act. As soon as the names of all candidates for the several offices to be elected at that election are filed as required by law, the board or official whose duty it is to prepare the ballot labels for the machine, shall forthwith have the names of each regularly nominated candidate, together with the designating number and letter, if any, corresponding to each of the candidate's counter on the voting machine, printed in the space provided therefor: Provided, That in case of the death, resignation or failure to qualify of any of such candidates after such inspectors'

statement of returns are printed, a slip may be furnished giving the name, designating number and letter, if any, of the candidate substituted therefor and same shall be pasted, before the delivery of the inspectors' statement of returns to the board of inspectors, over the candidate's name who died, resigned or failed to qualify.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.794 Definitions used in MCL 168.794 to 168.799a.

Sec. 794. As used in sections 794 to 799a:

(a) "Audit trail" means a record of the votes cast by each voter that can be printed, recorded, or visually reviewed after the polls are closed. The record shall not allow for the identification of the voter.

(b) "Ballot" means a card, ballot label, paper ballot, envelope, or any medium through which votes are recorded.

(c) "Ballot label" means the display or material containing the names of offices and candidates or the questions to be voted on.

(d) "Counting center" means 1 or more locations selected by the board of election commissioners of the city, county, township, village, or school district at which ballots are counted by means of electronic tabulating equipment or vote totals are electronically received from electronic tabulating equipment and electronically compiled.

(e) "Electronic tabulating equipment" means an apparatus that electronically examines and counts votes recorded on ballots and tabulates the results.

(f) "Electronic voting system" means a system in which votes are recorded and counted by electronic tabulating equipment.

(g) "Escrow account" means a third party approved by the secretary of state for the purpose of taking custody of all source codes, including all revisions or modifications of source codes.

(h) "Source code" means the assembly language or high level language used to program the electronic voting system.

(i) "Voting device" means an apparatus that contains the ballot label and allows the voter to record his or her vote.

(j) "Voting station" means an enclosure provided to ensure ballot secrecy during the voting of the ballot.

(k) "Memory device" means a method or device used to store electronic data.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting

system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.794b Electronic voting system; manner of payment.

Sec. 794b. The board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, on the adoption and acquisition of an electronic voting system, shall provide for payment for the system in the same manner as is provided for the payment for voting machines in section 774.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.794c Applicability and construction of provisions; rules.

Sec. 794c. The provisions of sections 794 to 799a control with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose of the provisions. A provision of law relating to the conduct of elections that conflicts with sections 794 to 799a does not apply to the conduct of elections with an approved electronic voting system. The secretary of state shall promulgate rules to implement the provisions of sections 794 to 799a, in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable; equipping each polling place with accessible voting device.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to

reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(m) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device shall include nonvisual accessibility for the blind and visually impaired.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls. Electronic tabulating equipment that tabulates ballots, including absentee ballots, at a central location shall be programmed to reject a ballot if the choices recorded on an elector's ballot for an office or a question exceed the number that the elector is entitled to vote for on that office or question, if no valid choices are recorded on an elector's ballot, or if, in a primary election, votes are recorded for candidates of more than 1 political party.

(3) Beginning January 1, 2006, each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(m).

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

--Eliminate “straight party” vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.795a Electronic voting system; approval by board of state canvassers; conditions; approval of improvement or change; inapplicability of subsection (1); intent to purchase statement; instruction in operation and use; disapproval.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of \$1,500.00 for a new voting system and a fee of \$500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(i) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).

(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.

(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).

(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

(7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the "intent to purchase statement".

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.795b Printing or displaying ballot labels, questions, office titles, and names of candidates; columns, pages, and directional signs; ballot stub.

Sec. 795b. (1) Ballot labels shall be printed or displayed in plain, clear, black type on white surface.

Questions may be printed or displayed on red tinted surface and the names of candidates for nonpartisan offices on blue tinted surface. County questions may be printed or displayed on green tinted surface and local questions may be printed or displayed on buff surface. In a primary election to identify each political party, the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages or displays. The office title with a statement of the number of candidates to be voted for shall be printed or displayed above or at the side of the names of the candidates for that office. The offices and candidates shall be printed or displayed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the county, city, village, township, or school district. If there are more candidates for an office than can be printed or displayed in 1 column or on 1 page or display, the ballot label shall be clearly marked that the list of candidates is continued on the following column, page, or display, and so far as possible, the same number of names shall be printed or displayed on each column, page, or display. Arrows or other directional signs may be used to indicate the place to vote for each candidate or question.

(2) Ballots that are processed through electronic tabulating equipment after the elector has voted shall have an attached, numbered, perforated stub.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day; partisan elections; straight party ticket vote prohibited; appropriation.

Sec. 795c. (1) The different parts of the ballot, such as partisan, nonpartisan, and questions, shall be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label shall be clearly marked to indicate the ballot for each election. In partisan elections, the ballot label shall not include a position by which a voter may by a single selection record a straight party ticket vote for all the candidates of 1 party.

(2) For the 2015-2016 fiscal year, \$5,000,000.00 is appropriated from the general fund to the department of state to purchase voting equipment to implement the elimination of straight party ticket voting.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____
No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.796 Sample ballots.

Sec. 796. Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided as required by law. At least 2 copies shall be posted in each polling place on election day. Sample ballots may be printed on a single page or on a number of pages stapled together.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.796a Electronic voting system; preparation for election; equipment and supplies; voting stations.

Sec. 796a. (1) Before an election at which an electronic voting system is used, the board of election commissioners of the county, city, village, township, or school district shall have the system prepared for the election. The board shall provide the election board of each voting precinct with the necessary equipment and supplies.

(2) Before an election, the board of election commissioners of a county, city, village, township, or school district shall provide a sufficient number of voting stations needed to ensure the orderly conduct of the election taking into consideration the projected turnout, the length of the ballot, and the number of voters the voting system can process per hour as determined under section 795a. As a minimum for each election, the board of election commissioners shall provide at least 1 voting station for each 400 registered voters in each precinct through August 31, 1998 and at least 1 voting station for each 300 registered voters on and after September 1, 1998. If counting centers are used, the board of election commissioners of the county, city, village, township, or school district shall establish 1 or more counting centers as needed before the election.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1987, Act 21, Imd. Eff. Apr. 24, 1987;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

Popular name: Election Code

168.796b Repealed. 1990, Act 109, Imd. Eff. June 18, 1990.

Compiler's note: The repealed section pertained to instruction of election inspectors.

Popular name: Election Code

168.797 Inspectors of election; duties; certification of equipment operation.

Sec. 797. Not less than 30 minutes before the opening of the polls, the inspectors of election shall arrive at the polling place and prepare the polling place for voting. The inspectors of election shall determine that the correct ballot has been provided to the precinct by comparing the ballot provided with the sample ballot and any other documents provided to the precinct. The inspectors of election shall complete required tests of the equipment of the electronic voting system and certify in writing that the equipment is operating properly. The written certification shall be on a form prescribed by the secretary of state and shall include pertinent information regarding seal numbers, counters, and the operation and use of the particular equipment.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

168.797a Instruction in method of voting on electronic voting system; use of ballot processed through electronic tabulating equipment; procedure; detached stub; spoiled ballot; processing of challenged voter ballot; removal of ballot.

Sec. 797a. (1) Before entering the voting station, each elector shall be offered instruction in the proper method of voting on the electronic voting system. If the elector needs additional instruction after entering the voting station, 2 election inspectors from different political parties may, if necessary, enter the voting station and provide the additional instructions.

(2) If the electronic voting system provides for the use of a ballot that is processed through electronic tabulating equipment after the elector votes, the elector shall transport the ballot to the ballot box, or other approved ballot container, without exposing any votes. An election inspector shall ascertain, by comparing the number appearing on the ballot stub with the number recorded on the poll list, that the ballot delivered by the voter is the same ballot that was issued to the elector. If the numbers do not agree, the ballot shall be marked as “rejected”, and the elector shall not be allowed to vote. If the numbers agree, an election inspector shall remove and discard the stub. Except as otherwise provided in this subsection, the election inspector shall deposit the ballot in the ballot box or other approved ballot container. If electronic tabulating equipment that deposits the voted ballot into the ballot box or other approved ballot container is used at the precinct, the election inspector shall return the ballot to the elector, and the elector shall then deposit the ballot into the electronic tabulating equipment. The electronic tabulating equipment shall be arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the electronic tabulating equipment, 2 election inspectors from different political parties may periodically open the equipment to rearrange voted ballots and may transfer voted ballots to another approved ballot container.

(3) A ballot from which the stub is detached shall not be accepted by the election inspector in charge of the ballot box or other approved ballot container. An elector who spoils his or her ballot may return it and secure

another ballot. The word “spoiled” shall be written across the face of the ballot, and the ballot shall be marked and secured for later return.

(4) A ballot of a challenged voter that has the names of candidates and questions printed directly on the voted ballot shall be processed in the manner prescribed for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual hard copy ballot shall be processed in the manner prescribed for challenging a vote cast on a voting machine.

(5) Except as otherwise provided in this act, an election inspector shall not allow any portion of a ballot, including a ballot stub, to be removed by any person other than an election inspector from the polling place.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.797b Rules.

Sec. 797b. The secretary of state shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the tabulation of ballots, certification of results, delivery of ballots and certified results, and sealing of devices and ballot boxes after the polls are closed.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.797c Computer program; disposition and use of source code.

Sec. 797c. A person or company providing a computer program that examines, counts, tabulates, and prints results of the votes cast by a voter on an electronic voting system shall place in an escrow account a copy of the source code of the program and any subsequent revisions or modifications of the source code. The secretary of state or an authorized agent of the secretary of state shall agree to use the information contained in the source code solely for the purpose of analyzing and testing the software and shall not disclose proprietary information to any other person or agency without the prior written consent of the vendor.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of

general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.798a Separate counting center; direction and conduct of proceedings; method.

Sec. 798a. If a separate counting center is used, all proceedings shall be under the direction of the clerk or authorized assistants. The proceedings shall be conducted under observation by the public, but no persons except those authorized shall touch a ballot or return. Persons who engage in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If a ballot is damaged or defective so that it cannot properly be counted by the electronic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged or defective ballot. Each duplicate ballot shall be clearly labeled “duplicate”, and shall bear a serial number, which shall be recorded on the damaged or defective ballot.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.798b Electronic tabulating equipment; unofficial and official returns; manual count.

Sec. 798b. Before the conduct of the official count, the clerk may conduct an unofficial count in order to provide early unofficial returns to the public. Upon completion of the count, the official returns shall be open to the public. The return of the electronic tabulating equipment, to which have been added the write-in and absentee votes if necessary, shall constitute, after being duly certified, the official return of each precinct or election district. If it becomes impracticable to count all or a part of the ballots with tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.798c Casting absentee votes on paper ballots or ballot cards; count; recording; voting and processing absent voters' ballots; inspection of rejected ballot.

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspectors on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1969, Act 186, Imd. Eff. Aug. 5, 1969;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____
No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.799 Injuring, altering, or defacing voting device, ballot, or other equipment; interference with correct operation of equipment; enforcement; examination.

Sec. 799. A person shall not willfully injure any voting device, ballot, or other record or equipment or interfere or attempt to interfere with its correct operation. The inspectors of the election shall enforce the provisions of this section. The inspectors of election, at such intervals as they consider proper, shall examine any voting device, ballot, or other equipment used in the election to ascertain whether it has been injured, altered, or defaced, to detect the wrongdoer, and to repair the injury.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.799a Recounting punched, marked, or stamped ballot; procedure; stray marks; releasing sealed materials.

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

History: Add. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002,

provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.